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10/635,045

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Masahide Yamaki

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09/18/2006

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EXAMINER

SMITH, TERRI L

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,045

Applicant(s)

YAMAKI ET AL.

Examiner

Terri L. Smith

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8-5-03; 1-23-06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-12 in the reply filed on 01 August 2006 is acknowledged.

Specification

2. The disclosure is objected to because of the following informalities: On page 1 in line 24, it appears that the word "a" should be the word "as" instead.

On page 25 in line 21, it appears that the word "form" should be the word "from" instead.

Appropriate correction is required.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which Applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 6 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 6 and 12, the phrase "performs processing ... split in a time series in accordance with the priority information" is not disclosed in the specification. It is unclear what split in a time series means. Applicant

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has not discussed a time series anywhere in the specification nor the split function, if split is, in fact, a function. It is unclear what is meant by split. What is being split? How is it being split? What are the advantages of the split function?

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the Applicant regards as his invention.

7. Claims 1–12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrases “a first medical device” and “a second medical device” are inferentially included and it cannot be determined if the devices are being positively recited or functionally recited. To positively claim the devices, it is suggested to first positively recite the devices. Otherwise, functional language such as “for” or “adapted to be” should be used.

In claim 7, the phrases “is accomplished” (lines 3 and 9) and “is performed” should be in the active voice.

In claim 8, the phrase “the control circuit controls ... on the basis of priority information ...” should be in the active voice.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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9. Claims 1–12 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al., U.S. Patent 6,642,836.

10. Regarding claims 1 and 7, Wang et al. disclose a medical control device (Fig. 1, element 10, control system) comprising: a first communications control unit (14, slave controller) which utilizes communications of a first protocol to transmit and receive data to and from a first medical device (24, insufflator) that is used to perform medical treatments; a second communications control unit (14, slave controller) which utilizes communications of a second protocol that differs from the first protocol to transmit and receive data to and from a second medical device that is used to perform medical treatments (20, robotic arm or laser, column 2, line 55); and a control part (12, master controller) which transmits and receives data utilizing communications of a third protocol that is shared by the first communications control unit and the second communications control unit, and which controls the first communications control unit and the second communications control unit (Fig. 1) (column 3, lines 20–35; column 4, lines 51–53); a first communications control circuit (claim 7) (Figs. 1 and 3) and a second communications control circuit (claim 7) (Figs. 1 and 3) and a control circuit (claim 7) (Fig. 4).

11. Wang et al. disclose a control part has a memory part (column 5, lines 65–column 6, lines 1–15; column 8, lines 32–35) that stores priority information relating to the communications processing of the first communications control unit and the second communications control unit (column 8, lines 32–40), and the first communications control unit and the second communications control unit are controlled on the basis of the priority information (column 8, lines 32–49) (claim 2); priority information is information that corresponds to the type of protocol (claims 3 and 9) (column 2, lines 33–45) and medical device (claims 4 and 10) (column

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2, line 55; column 9, lines 14–16) and the function of the medical device (claims 5 and 11) (column 2, lines 54–55; column 9, lines 14–17); a control part performs processing with the first communications control unit and second communications control unit split in a time series in accordance with the priority information (claims 6 and 12) (column 8, lines 32–49).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Terri L. Smith whose telephone number is 571-272-7146. The Examiner can normally be reached on Monday - Friday, between 7:30 a.m. - 4:00 p.m..

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TLS

September 15, 2006

15 September 2006

GEORGE R. EVANISKO
PRIMARY EXAMINER

9/15/06